

GAU 1644

DOCKET NO. 17282(AOC)
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of
Sachs et al

Serial No: 09/288,326

Filed: April 8, 1999

For: METHODS AND COMPOSITIONS
FOR THE TREATMENT OF PANCREATITIS



Group Art Unit: 1644

Examiner: Clemens, K.

[Handwritten signature]

Honorable Assistant Commissioner for Patents
Washington, D.C. 20231

PROVISIONAL ELECTION AND TRAVERSAL
OF RESTRICTION REQUIREMENT

Dear Sir:

This communication is being filed in reply to the Restriction Requirement mailed
February 15, 2000. Applicants have the following comments.

Provisional Election

Applicants provisionally elect to prosecute claims 1-24 comprising Examiner's Group 1. Additionally, in accordance with the election of species requirement, Applicants provisionally elect a species comprising 1) a specific binding element comprising SEQ ID NO: 6; 2) a specific translocation element comprising the N-terminal half of the heavy chain of a Clostridium botulinum neurotoxin; 3) a specific therapeutic element cleaving a SNARE protein comprising the light chain of BoNT/A or E, cleaving SNAP-25; and 4) a specific spacer moiety comprising a proline-containing polypeptide identical or analogous to an immunoglobulin hinge region such as SEQ ID NO: 11.

This election of species is provisional, and is traversed herein.

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CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS, ON THE DATE SHOWN BELOW, BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE WITH SUFFICIENT POSTAGE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: BOX INFORMATION DISCLOSURE STATEMENT, COMMISSIONER OF PATENTS AND TRADEMARK, WASHINGTON, D.C. 20231 on 3/10/00

Signature of Person Making Deposit: Bonnie Ferguson Printed Name of Person Making
Deposit: BONNIE FERGUSON Date: 3/10/00

If the restriction requirement is maintained, the Applicants hereby cancel non-elected claims 25-~~50~~.

Claims 1-24 are all readable on the elected species.

Invitation to Amend Dependency of Claims 9-12

The Examiner has invited the Applicants to clarify and amend claims 9-12, stating the belief that these claims should depend from claim 5 and not from claims 8-11. However, Applicants respectfully point out that, as disclosed on page 17 of the specification, SEQ ID NO: 2 contains the amino acid sequences SEQ ID NO: 3, SEQ ID NO: 4, SEQ ID NO: 5 and SEQ ID NO: 6 in their respective entirety. Likewise, SEQ ID NO: 3 contains the amino acid sequences SEQ ID NO: 4, SEQ ID NO: 5 and SEQ ID NO: 6; SEQ ID NO: 4 contains the amino acid sequences SEQ ID NO: 5 and SEQ ID NO: 6; and SEQ ID NO: 5 contains the amino acid sequence SEQ ID NO: 6. With this in mind it can be seen, therefore, that claims 9-12, which recite a binding element comprising SEQ ID NO: 5, 4, 3, and 2, respectively (claim 8 recites such a binding element comprising SEQ ID NO: 6) are properly dependent.

For this reason, Applicants decline the invitation to amend the dependencies of these claims.

Traversal of Restriction Requirement

Applicants respectfully traverse the restriction requirement made in the February 15, 2000 communication. Applicants do not contest the restriction made between claims 1-24 (Group I; characterized as a composition comprising a binding element, a translocation element, and a therapeutic element) and claims 25-50 (Group II; characterized as a method of treatment for acute pancreatitis). However, Applicants traverse the election of species requirement made under paragraph 8 (page 3) of the Examiner's communication for the following reasons.

The Examiner has required Applicants to elect a composition comprising a specific binding element comprising one of SEQ IDs NO: 2, 3, 4, 5, or 6 (present as elements of claims 8-12). In paragraph 9 (page 4) the Examiner has said that the various binding elements comprising these sequences have different amino acid sequences, are independent in operation, and that one does not require the other(s) for its ultimate use. This is clearly not the case.

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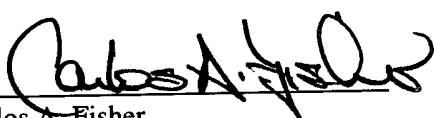
As stated above, these sequences are all related amino acid sequences, in that they all comprise biologically active cleavage products of the full length CCK chain. Moreover, the higher numbered SEQ ID NOs of this set are contained within all the lower numbered sequences therein, as inspection of these sequences will verify. Thus, while it is true that each sequence is different, all these sequences either contain another sequence of this set, are contained within another sequence of the set, or both. All sequences contain and require at least SEQ ID NO: 6 for their operation. Finally and importantly, a single search field, classification, and status in the art would certainly pertain to these sequences. Therefore, the election of species between compositions containing these amino acid sequences is respectfully submitted to be improper.

CONCLUSION

This Reply is being filed before the passage of 30 days after the mailing date of Paper Number 5; thus no fee is thought to be required. If Applicant is in error in this regard, please use Deposit Account 01-0885 for payment of any fee that may be due.

Respectfully submitted,

Date: 3/9/00


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